

ANDERS GUIDELINES

Section I addresses the requirements for *Anders* briefs submitted in guilty plea cases.

Section II addresses the requirements for *Anders* briefs submitted in a jury or bench trial.

SECTION I

***Anders* Briefs in Guilty Plea Cases**

If you plan to file an *Anders* brief and supporting motion to withdraw in a guilty plea case, please take note of the following information. To assure and demonstrate compliance with *Anders v. California*, 386 U.S. 738 (1967), the *Anders* brief in support of a motion to withdraw in a guilty plea case ordinarily must contain a discussion of whether the defendant was properly admonished pursuant to article 26.13 of the Texas Code of Criminal Procedure, and whether arguable error was committed during the punishment phase. As with any brief, compliance with Texas Rule of Appellate Procedure 38 is required. See the [briefing checklist](#) for a complete list of requirements. These *Anders* guidelines supplement but do not replace the briefing requirements.

To comply with *Anders*, counsel should examine the following areas and expressly address them in the brief.

1. Sufficiency of the indictment or misdemeanor information.
2. Any adverse pretrial rulings, including but not limited to rulings on motions to suppress, motions to quash, and motions for speedy trial.
3. Compliance with Texas Code of Criminal Procedure article 26.13 and, if appropriate, *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010).
4. Whether the issue of competency was raised prior to sentencing, so as to warrant an inquiry by the court, and whether appellant was mentally competent when the court accepted the plea.
5. Whether appellant's plea was freely and voluntarily made.
6. Any adverse rulings during the sentencing hearing on objections or motions.
7. Any failure on the part of appellant's trial counsel to object to fundamental error.
8. Whether the sentence imposed was within the applicable range of punishment.
9. Whether the written judgment accurately reflects the sentence that was imposed and whether any credit was properly applied.

10. Whether there is evidence to support a guilty plea in a felony case.
11. Examination of the record to determine if the appellant was denied effective assistance of counsel.

SECTION II

***Anders* Briefs in Jury and Bench Trial Cases**

If you plan to file an *Anders* brief and supporting motion to withdraw in a jury or bench trial case, please take note of the following information. To assure and demonstrate compliance with *Anders v. California*, 386 U.S. 738 (1967), *High v. State*, 573 S.W.2d 807 (Tex. Crim. App. 1978), and *Stafford v. State*, 813 S.W.2d 503, 512 (Tex. Crim. App. 1991), the *Anders* brief in support of a motion to withdraw must contain, at a minimum, a discussion of the items listed below. You are encouraged to include these items in the Table of Contents, which will assist the court in conducting its examination of the record. As with any brief, compliance with Texas Rule of Appellate Procedure 38 is required. For a complete list of requirements, see the [briefing checklist](#). These *Anders* guidelines supplement but do not replace the briefing requirements. If any issues unique to the case are not covered by the list below, those unique issues also should be discussed in the brief.

To comply with *Anders*, counsel should examine the following areas and expressly address them in the brief.

1. Sufficiency of the indictment.
2. Any adverse pretrial rulings affecting the course of the trial, including but not limited to rulings on motions to suppress, motions to quash, and motions for a speedy trial.
3. Any adverse rulings during trial on objections or motions, including but not limited to objections to admission or exclusion of evidence, objections premised on prosecutorial or judicial misconduct, and motions for mistrial.
4. Any adverse rulings on post-trial motions, including motions for a new trial.
5. Jury selection [N/A in bench trial].
6. Jury instructions [N/A in bench trial].
7. Sufficiency of the evidence, including a recitation of the elements of the offense(s) and facts and evidence adduced at trial relevant to the offense(s) upon which

conviction is based.

8. Any failure on the part of appellant's trial counsel to object to fundamental error.
9. Any adverse rulings during the punishment phase on objections or motions.
10. Whether the sentence imposed was within the applicable range of punishment.
11. Whether the written judgment accurately reflects the sentence that was imposed and whether any credit was properly applied.
12. Examination of the record to determine if the appellant was denied effective assistance of counsel.